

Appendix D

Stipulations

1. Cultural and Paleontological Stipulations

- Any cultural and/or paleontological resource (historic or prehistoric site or object or fossil) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- **Site Monitoring** The holder of this authorization will provide an archeologist, with a current BLM Cultural Resources Use Permit, to monitor ground disturbing activities at the following locations:

T.33N., R.89W. Section 16 W1/2NE1/4SW1/4, E1/2NW1/4SW1/4

The archeologist will notify the authorized officer prior to beginning site monitoring. Construction methods will be utilized which will allow the identification of cultural resources without endangering the personnel monitoring the construction activities. If potentially significant cultural resources are identified, and the archeologist determines that further operations will affect the resource, the holder shall suspend all activities in the vicinity of such a discovery until notified to proceed by the authorized officer. The authorized officer will evaluate, or will have evaluated, such discoveries not later than five working days after being notified, and will determine what action shall be taken with respect to such discoveries. The decision as to the appropriate measures to mitigate adverse effects to significant cultural resources will be made by the authorized officer after consulting with the holder. The holder shall be responsible for the cost of any investigations necessary for the evaluation, and for any mitigative measures.

A report of all archeological activities will be submitted to the authorized officer within 30 days of completion of the field work.

- **Paleontological Resources, Reconnaissance, and Construction Monitoring** The holder of this authorization will provide a paleontologist, with a current BLM Paleontological Consulting Permit, to conduct pre-construction reconnaissance activities and monitor ground disturbing activities at the following locations:

T.33N., R.89W. Sections 17 All, 18 E1/2

Reconnaissance: The paleontologist will be on site at least one working day prior to initiating construction to conduct pre-construction reconnaissance activities. The paleontologist will notify the authorized officer prior to beginning reconnaissance activities. If potentially significant paleontological resources are identified during the reconnaissance, the paleontologist shall consult with the authorized officer to determine if construction should be suspended. The authorized officer will evaluate, or will have evaluated, such discoveries not later than five working days after being notified, and will determine what action shall be taken with respect to such discoveries. The decision as to the appropriate measures to mitigate adverse effects to significant paleontological resources will be made by the authorized officer after consulting with the holder. The holder shall be responsible for the cost of any investigations necessary for the evaluation, and for any mitigative measures.

Monitoring: Following results of the reconnaissance inventory, the paleontologist will monitor ground disturbing activities in those areas identified as having the potential to contain buried paleontological resources. Construction methods shall be utilized which will allow the identification of paleontological resources without endangering the personnel monitoring the construction activities. If potentially significant paleontological resources are identified, and the paleontologist determines that further operations will affect the resource, the holder shall suspend all activities in the vicinity of such a discovery until notified to proceed by the authorized officer. The authorized officer will evaluate, or will have evaluated, such discoveries not later than five working days after being notified, and will determine what action shall be taken with respect to such discoveries. The decision as to the appropriate measures to mitigate adverse effects to significant paleontological resources will be made by the authorized officer after consulting with the holder. The holder shall be responsible for the cost of any investigations necessary for the evaluation, and for any mitigative measures.

A report of all paleontological activities will be submitted to the authorized officer within 30 days of completion of the field work.

2. The right-of-way shall be maintained in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil

drums, petroleum products, ashes, and equipment.

3. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The following weed specific stipulations apply:
 - Prior to any surface disturbing activities an invasive plant survey will be conducted by a qualified vegetation specialist. This assessment will show the location and species of invasive or noxious plants. These findings will be presented to the BLM.
 - Mobile equipment being transported from an offsite location to the ROW should be cleaned prior to arrival using water, steam, or air pressurized cleaning methods to remove any invasive or noxious weed seed and plant parts or materials that could contain seeds or plant parts. When appropriate, identify sites generally off public lands where equipment can be cleaned and seeds and plant parts can be collected and disposed of appropriately.
 - All mulch, seed and other vegetative reclamation materials must be certified weed free. All sand, gravel, and fill materials shall be certified weed free.
 - If weed species have been determined by the local BLM weed coordinator to encroach outside of the ROW and are determined a result of AML/Fremont County Roads, AML/Fremont County Roads will be responsible for the treatment and management of the weeds as long as the encroachment exists. In order for AML/Fremont County Roads to be released of this responsibility no plants shall be found in as many consecutive years as the seed viability for the particular plant species lasts.
 - If determined by the BLM weed specialist that the project is responsible for the introduction of new weed species AML/Fremont County Roads will be responsible financially for the management. In order for the company or operator to be released of this responsibility no plants shall be found in as many consecutive years as the seed viability for the particular plant species lasts.
 - Fremont County will need to control any designated noxious weeds should they begin to grow in the ROW. Cooperation with private land owners and any State Lands for a weed management plan will be necessary for proper noxious weed control.
4. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the appropriation or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

5. The holder(s) agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agents, or unrelated third parties.
6. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
7. No activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support equipment.
8. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

9. The holder shall contact the authorized officer at least 7 days prior to the anticipated start of construction and/or maintenance. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or maintenance on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or maintenance associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the application.
10. One hundred eighty (180) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, re-contouring, top-soiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
11. Prior to reclamation and relinquishment of this right-of-way, an approved seed mixture shall be obtained from the BLM, Lander Field Office.
12. To minimize surface disturbance, any use of the road by vehicles other than pickups shall be done while the ground is frozen.
13. If snow removal from the road is undertaken, equipment used for snow removal operations shall be equipped with shoes to keep the blade 3 inches off the road surface. The holder shall take special precautions where the surface of the ground is uneven and at drainage crossings to ensure that equipment blades do not destroy vegetation.
14. The right-of-way shall be relinquished to the United States if the authorized uses are no longer needed.
15. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the plan of development which was approved and made part of the grant on _____.
16. Any relocation, additional construction, or use that is not in accord with the approved plan of development, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all stipulations and approved plan of development, shall be made available on the right-of-way area during construction, operation, and termination to the authorized officer. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment. 16. If any additional erosion occurs during the life of the project, the holder will control it through approved protective measures.

17. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the holder shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.
18. All disturbed areas shall be seeded with a seed mix acceptable to AML and the BLM. The seed shall be applied by a drill equipped with a regulator. Planting depth shall not exceed one-half inch. Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. It is recommended that seeding be done during the months of September or October following construction completion. The seeding will be repeated until a satisfactory stand, as determined by the authorized officer, is obtained. Evaluation of growth will not be made before completion of the first growing season after seeding. The authorized officer is to be notified prior to seeding in order that arrangements can be made for supervision of the seeding project. If the broadcast method is utilized, the seed mixture **shall be doubled**.
19. Within 30 days of completion, "as built" of the entire access road shall be submitted to the BLM-Lander Field Office both electronically (shape files) and hard copy. Hard copy maps shall be at the scale of 1:24,000 showing surface ownership and topography.

Decision Record and Finding of No Significant Impacts for the Dry Creek Road Relocation and the Free Use Permits and Reclamation of the Rattlesnake and Pathfinder Quarries



Aerial photo of Rattlesnake Quarry

April 2016



FINDING OF NO SIGNIFICANT IMPACT

DOI-BLM-WY-R050-2016-0004-EA

Application of Fremont County and the Wyoming Department of Environmental Quality,
Abandoned Mine Lands Right of Way and Free-Use Permits

6th PM, T 33 N, R 90 W Fremont County, Wyoming

Finding of No Significant Impacts:

Based on my review of the analysis of the potential environmental impacts of the Fremont County right-of-way (ROW) and Wyoming Department of Environmental Quality, Abandoned Mine Lands Free Use Permit and Reclamation Environmental Assessment (EA) I have determined that the Proposed Action is in conformance with the approved land use plans and will not have any significant impact on the human, natural and physical environment. Therefore, an environmental impact statement is not required.

The EA shows that limited short-term adverse impacts to the wildlife and fugitive dust may occur but that these impacts will terminate with the completion of the reclamation work and, thereafter, beneficial impacts are likely. Upon completion of construction, improvements to soils, water, riparian resources and transportation will be achieved. The upgraded road and reclaimed Rattlesnake and Pathfinder quarries will result in meaningful benefits to health and human safety. There will be minor beneficial impacts to visual resources from the Proposed Action.

The Lander Resource Management Plan LFO RMP allows ROWs in the Gas Hills area. It is BLM national policy to cooperation with AML in remediating abandoned mine lands such as the Rattlesnake Quarry. The Proposed Action is, thus, in conformance with land use plans and no amendments to the RMPs will be necessary to implement the Proposed Action.

Richard Vander Voet

Field Manager, Lander Field Office, Richard Vander Voet

5/13/16

Date

Attachment: DOI-BLM-WY-R050-2016-0004-EA

DECISION RECORD

Environmental Assessment: DOI-BLM-WY-R050-2016-0004-EA
Fremont County and
Wyoming Department of Environmental Quality, Abandoned Mine Lands
Right of Way and Free-Use Permits
6th PM, T 33 N, R 90 W Fremont County, Wyoming

Introduction:

Fremont County applied for a right-of-way (ROW) and Free Use Permit to upgrade Dry Creek Road in the Gas Hills. Wyoming Department of Environmental Quality, Abandoned Mine Lands Division (AML) has applied for a free use permit and permission to undertake reclamation of the Rattlesnake Quarry.

Dry Creek Road is currently in a degraded condition from the terminus of Highway 136 east to the Natrona County line where it meets County Road 212. Rattlesnake Quarry, located in Natrona County in the BLM Casper Field Office, has not been reclaimed following extensive material mining in the 1990s. Drainages are blocked, stock-piled material remains on site and substantial highwalls exist.

The grant for the ROW will be made under the authority of Title V of the Federal Land Management and Policy Act. In accordance with regulation, there will be no rental payments required. The free use permits to Fremont County will be made under the authority of 43 CFR Subpart 3604. The grant will be subject to the design features identified in the EA and the stipulations attached to the authorization.

Decision:

It is my decision to authorize the Fremont County ROW and the Fremont County and AML free use permits. The authorizations will be issued as follows:

- ROW WYW 168232
- Free Use Permits WYW 158628 and WYW168629

Rationale for Decision:

The decision to approve the Proposed Action is based on the following:

1. Consistency with Resource Management Plans

The Lander Records of Decision and Approved Resource Management Plans (RMP) identified areas that are open ROW which include the Dry Creek Road area; the Fremont County ROW does not extend in to the Casper Field Office. The Lander and Casper RMPs do not close the project area to mineral material disposals. The plans encourage cooperation with AML in remediating abandoned mines such as the Rattlesnake Quarry and encourage reducing dangerous and degraded lands resulting in threats to health and safety.

2. National Policy

The BLM national policy is to facilitate reclamation of abandoned mines; see http://www.blm.gov/wo/st/en/prog/more/Abandoned_Mine_Lands.html.

3. Agency Statutory Requirements

The decision is consistent with all federal, state, and county authorizing including FLPMA and 43 CFR 3605. All pertinent statutory requirements applicable to this proposal were considered including informal consultation with the U.S. Fish and Wildlife Service (USFWS). Cultural surveys and compliance with Section 106 of the National Historic Preservation Act were conducted. No additional tribal consultation is required because of the extensive consultation for the entire Gas Hills historic district that was conducted as part of the Cameco Gas Hills EIS.

4. Relevant Resource and Social Issues

Potential adverse environmental impacts from the Proposed Action identified in the Environmental Assessment are all deemed less than significant with mitigation and stipulation. The removal of two serious safety threats is considered beneficial. Minor and short term potential adverse impacts to wildlife could occur but do not rise to the level of significance. The BLM has determined that the Proposed Action will not lead to the listing of any species under the Endangered Species Act; see the Wildlife Section of the EA.

5. Application of Measures to Avoid or Minimize Environmental Impacts

The design features identified in the EA and the required mitigation including surveys and stipulations avoid or minimize adverse environmental impacts. The net effect of the Proposed Action is a substantial benefit to the human environment with minor, short-term adverse impacts.

6. Finding of No Significant Impact

Based upon the analysis contained in the Environmental Assessment along with the implementation of the protection measures identified as stipulations, I have determined that the proposed action will not cause any significant impacts on the human, natural, and physical environment considering the factors identified in 40 CFR 1508.27(b):

1. The context of the action is limited to the localized road area and the Rattlesnake Quarry. While the improvements will have meaningful benefits to safety, those benefits are limited to the small number of people using the road. Similarly, the minor short-term adverse impacts described in the EA are also localized.
2. Public safety is improved.
3. There are no unique characteristics of the geographic area such as those described in the regulation.
4. The public supports improvements to roads and reduction of safety hazards so there is no controversy regarding the action.
5. The effects of the action are well known and there are no unique or unknown risks. AML has successfully reclaimed abandoned mines and mine roads many times and is highly experienced in the Gas Hills.
6. The road upgrade and quarry reclamation are unrelated to any future decisions or actions.

7. As discussed in the EA, there are no anticipated cumulative effects which would increase the impact of the proposed action. Any effects associated with future construction and operation of the Cameco uranium mine were thoroughly analyzed in that EIS. The road upgrade will reduce any fugitive dust or emissions in the currently unlikely development of the mine by improving the surface of the roads that may be used for transportation; see analysis in the EIS.
8. The BLM archaeologist determined that the road upgrade and the quarry reclamation will not adversely impact National Register eligible items and that the required stipulations will protect unknown items that are discovered during construction. The area's cultural and tribally meaningful properties throughout the Gas Hills Historic District were thoroughly analyzed as part of the Cameco EIS, including extensive tribal consultation. A Programmatic Agreement is in place providing cultural protections.
9. The BLM wildlife biologist determined that there are no critical threatened or endangered species or designated critical habitat that would be adversely affected by the decision.
10. The proposed action does not violate any federal, state, or local law or any environmental protections.

7. Opportunity for Public Involvement

Scoping is an important part of the National Environmental Policy Act (NEPA) process and is used to determine the scope of issues to be addressed and for identifying the key issues related to a proposed action (40 CFR 1500.7). The scoping process can involve federal, state, and local government agencies, resource specialists, industry representatives, local interest groups, and members of the public. Scoping is an interdisciplinary process. Throughout the years of consideration of financial responsibility for the road (the desirability of the road and quarry improvements were never an issue), there were multiple meetings among various stakeholders as well as a well-attended public meeting of the Fremont County Commissioners. Support for the project is extensive.

8. Compliance and Monitoring:

Monitoring will be done by the area wildlife biologist, natural resource specialist, reality specialist, and surface compliance technician to ensure compliance with this authorization.

9. Appeals:

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations at 43 CFR 2801.10 or 43 CFR 2881.10 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and

to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Richard Vander Voet

Field Manager, Lander Field Office, Richard Vander Voet

5/13/16

Date

Attachment: EA No. DOI-BLM-WY-R050-2016-0004-EA